

Terms of Reference: Bird Nesting Survey

City of Surrey
Trees and Landscape Section

February 2020

If tree cutting is proposed for completion between March 15 and August 31, all applicants for a Tree Cutting Permit (TCP) related to a Building Permit (BP), Development Permit (DP), Development Variance Permit (DVP) or Subdivision (SD) are advised that the City requires a bird Nesting Survey to be completed by a Qualified Environmental Professional (QEP) prior to issuance of the TCP. The survey must be completed by a Qualified Environmental Professional - Registered Professional Biologist.

Background:

In British Columbia, breeding birds are protected under Section 34 of the *Wildlife Act* and the *Migratory Bird Convention Act*. Under Section 34 of the *Wildlife Act*, a person commits an offence if the person possesses, takes, injures, molests or destroys a bird or its egg, or a nest that is occupied by a bird or its egg. In Surrey, birds typically nest and rear young between March 1 and August 31.

If an activity or development risks injuring, molesting or destroying a nest site as defined by the *Wildlife Act*, protective buffers and mitigation measures should be established and employed to reduce disturbance of the nest and reducing the risk of contravening the *Wildlife Act*.

A Land Clearing Plan incorporating the results of the bird nesting survey should be prepared according to these Terms of Reference. The land clearing plan must be completed by a QEP.

If the QEP recommendations depart from those of the Provincial BMPs, the report must indicate how and why the QEP recommendations depart from the BMPs and, that in their opinion, the *Wildlife Act* and/or the *Migratory Bird Convention Act* will not be contravened through the implementation of those recommendations. The QEP is to professionally sign/stamp the Land Clearing Plan signifying that they will accept liability should the recommendations prove not to be enough, resulting in a contravention of the *Wildlife Act* and *Migratory Bird Convention Act*. Should the developer/landowner choose to depart from the QEP's recommendations, that developer/landowner accepts liability for the potential contravention of the *Wildlife Act*.

Standards and Best Practices:

The QEP must be familiar with and reference the following resources, as applicable, to the development location:

Develop with Care 2014: Environmental Guidelines for Urban and Rural Land Development in British Columbia (2014).

<http://www.env.gov.bc.ca/wld/documents/bmp/devwithcare/DWC-Cover.pdf>

Develop with Care 2014 – Section 5.6 – South Coast Region

<http://www.env.gov.bc.ca/wld/documents/bmp/devwithcare/DWC-Section-5-6-South-Coast-Region.pdf>

Environment Canada’s Safeguarding: Protecting migratory birds, colonies, nesting, guidelines, management practices

<http://www.ec.gc.ca/paom-itmb/>

Provincial Best Management Practices for Raptor Conservation during Urban and Rural Development in British Columbia. (2013) Available online:

http://www.env.gov.bc.ca/wld/documents/bmp/raptor_conservation_guidelines_2013.pdf

BC Inventory Standards for Forest and Grassland Songbirds. Available online:

<https://www.for.gov.bc.ca/hts/risc/pubs/tebiodiv/songbird/assets/songml20.pdf>

BC Inventory Standards for Raptors. Available online:

https://www.for.gov.bc.ca/hts/risc/pubs/tebiodiv/raptors/version2/rapt_ml_v2.pdf

BC Inventory Standards for Waterfowl. Available online:

<https://www.for.gov.bc.ca/hts/risc/pubs/tebiodiv/waterfowl/assets/waterfowl.pdf>

BC Inventory Standards for Woodpeckers. Available online:

<https://www.for.gov.bc.ca/hts/risc/pubs/tebiodiv/woodpeckers/assets/woodml20.pdf>

The Wildlife Tree Stewardship Program (WiTS) aims to document wildlife usage and location of wildlife trees as well as conserve wildlife trees within the remnant habitats of southern BC’s altered ecosystems. If applicable WiTS protocols and data collection forms may be used and the final report sent to WiTS for inclusion in their raptor nest database and continuous monitoring. www.wildlifetree.org

Bird Nesting Survey Process:

Bird Nesting Surveys must be completed to ensure that no bird or its nest will be harmed during tree cutting activities. A land clearing plan must be completed and submitted to the City if an active nest or a suspected nest is found on the site.

The Bird Nesting Survey and Land Clearing Plan must be submitted to treebylaw@surrey.ca for review. A tree cutting permit will not be issued until the bird nest survey/land clearing plan have been reviewed and accepted.

The bird nest survey and land clearing plan will be included as an appendix on applicable tree cutting permits. Recommendations from the survey and plan will be conditions on the tree cutting permit.

Bird Nesting Survey Requirements:

The bird nesting survey must be completed by a QEP using BC Inventory Standards. The survey should be conducted based on species that could be present in the development area. All breeding behavior must be documented.

The Bird Nesting Survey must include the following:

1. State the qualifications of the QEP completing the survey. The QEP must-self declare that they are qualified to design and conduct the bird nesting survey and create the land clearing plan. The QEP must professionally sign/seal the survey and plan
2. If any nests of species listed in subsection 34(b) of the Wildlife Act are present, please refer to the Engineering Environment Section for the *Protected Species Management Plan Terms of Reference*
3. The time of day and duration of the survey must be described and documented. These must follow standard guidelines for completing bird nestingsurveys
4. A minimum of two (2) consecutive surveys are needed during dawn and/or dusk
5. If only one (1) survey is being completed, the QEP needs to justify in their professional opinion why additional surveys are not required
6. Description of the lot to be cleared, including potential habitat (such as understory vegetation, canopy coverage, cavity locations, buildings, grassy areas etc.
7. A description of effort and how the survey was completed including any off-site observations that may require a buffer and may impact the development schedule
8. A plan showing the areas of survey effort, any active nests and prescribed buffers
9. Representative photos of the site, showing vegetation types, canopy cover and any bird nesting features of interest

10. A description of the time that the bird nesting survey is valid for. Typical surveys are good for three (3) to five (5) days and must be determined by the QEP based upon relevant factors
11. Any species that are not protected under the Wildlife Act should be addressed ethically following appropriate protocols

Land Clearing Plan Requirements:

A land clearing plan is required for any present or suspected nests. The land clearing plan must cover the time period for incubation, rearing, and until the young have fledged.

The Land Clearing Plan must include the following:

1. List the appropriate BMPs and indicate how the BMPs for the subject species will be achieved or provide justification for their exclusion or amendment.
2. Identify and mark out buffer zones (vegetation and noise buffers) around identified nest trees or nest sites
3. Identify a specific vegetation management strategy including recommendations for the vegetation buffer zones
4. Identify a specific noise management strategy including recommendations for noise buffer zones
5. Identify a specific monitoring strategy including recommendations
6. Provide specific protection measures including recommendations for roosting / perching / foraging sites, if applicable
7. Identify any potential impacts of development and provide avoidance / mitigation measures outlining how the proposed development meets the Best Management Practices or mitigates potential impacts
8. If trees within the vegetation buffer are identified as hazardous and need to be removed for safety reasons, the management plan should first consider pruning the tree to reduce hazards and promote wildlife use
9. Develop an appropriately scaled plan indicating:
 - The total areas surveyed
 - Nest tree(s), UTM coordinates
 - BMP Buffer Zones (vegetated buffer, noise disturbance buffer etc.)
 - QEP recommended Buffer Zones (if different than BMPs)
 - Lot boundaries
 - Proposed land clearing area